

REMARKS

Applicants have studied the Office Action dated May 21, 2003, and have made amendments to the specification and claims. Claims 12-14, 24 and 25 have been canceled without prejudice; claims 8, 10, 15-20, 22 and 26-31 have been amended; and new claims 32-48 have been added. It is submitted that the application, as amended, is in condition for allowance. Reconsideration and reexamination are respectfully requested.

The specification was objected due to minor informalities. In response, the specification has been amended to correct such informalities.

Claims 8, 10, 12, 17, 20, 22, 24, 29 and 30 were objected due to informalities. As recommended by the Examiner, these claims have been amended to correct the informalities. Thus, the objections to the specification and the claims are respectfully requested to be withdrawn.

Claims 12-14, 17, 24-26 and 29 were rejected under 35 U.S.C. § 102(a) as being anticipated by USP 6,023,783 (the "Divsalar reference"). This rejection is respectfully traversed.

As an initial matter, claims 12-14, 24 and 25 have been cancelled without prejudice.

A proper rejection for anticipation under § 102 requires complete identity of invention. The claimed invention, including each element thereof as recited in the claims, must be disclosed or embodied, either expressly or inherently, in a single reference. Scripps Clinic & Research Found. v. Genentech Inc., 927 F.2d 1565, 1576, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991); Standard Havens Prods., Inc. v. Gencor Indus., Inc., 953 F.2d 1360, 1369, 21 U.S.P.Q.2d 1321, 1328 (Fed. Cir. 1991).

The Divsalar reference fails to describe or suggest selectively using the tail output bits from the two or more constituent encoders. For example, claim 26 recites: "transmitting tail output bits from a first  $X(t)$  output branch and from a second  $Y_0(t)$  output branch during trellis termination of a first of the two or more constituent encoders; and transmitting tail output bits from a third  $X'(t)$  output branch and from a fourth  $Y_0'(t)$

output branch during trellis termination of a second of the two or more constituent encoders." Such limitation is not described or suggested in the Divsalar reference, and thus a rejection of claim 26, as amended under § 102 is improper.

Since claims 29-31 depend from claim 26, they are deemed allowable for the reasons cited above with respect to claim 26.

The Examiner has rejected claims 8-31 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of USP 6,332,209. In response, the applicant notes that in the interest of expediting prosecution of this application without prejudice, the applicant hereby submits a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) to overcome this rejection. Therefore, it is respectfully requested that the rejection of claims 8-31 be withdrawn.

New claims 32-48 have been added. Support for these claims can be found in the specification on pages 5-7.

No new matter has been introduced by these amendments.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Mr. Craig Plastrik at 301-601-7252, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully Submitted,



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